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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/580,880	03/05/2007	Ronald Perry	1567-5 PCT/US	7308
23869 7590 01/06/2010 HOFFMANN & BARON, LLP 6900 JERICHO TURNPIKE SYOSSET, NY 11791				
EXAMINER				
PICKETT, JOHN G				
ART UNIT		PAPER NUMBER		
3728				
MAIL DATE		DELIVERY MODE		
01/06/2010		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/580,880

**Applicant(s)**

PERRY, RONALD

**Examiner**

J. Gregory Pickett

**Art Unit**

3728

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 October 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3,4,6 and 8-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3,4,6 and 8-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 May 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB06)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. This action is in response to the amendment filed 30 July 2009 and the Supplement response filed 14 October 2009.

Claims 1, 3, 4, 6, and 8-17 are pending in the application. Claims 2, 5, and 7 have been canceled. Claim 17 is new.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

***Claim Rejections - 35 USC § 103***

2. Claims 1, 3, 6, 10-12, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Howells (Des. 367,604) in view of Keffeler et al (US 7,097,037).

1: As shown and readily discernable to one of ordinary skill in the art, Howells discloses an array of clips comprising a first and second clip; connecting element; and channel. The clip of Howells is provided with two legs interconnected by a retaining body (see Figure 1).

Howells discloses the claimed invention except for the protruding abutment ear. However, Keffeler teaches protruding abutments 66/68 at a fracture location to enhance the fracturing effect, and for said purpose, it would have been obvious to one of ordinary skill in the art to provide the clips of Howells with a protruding abutment ears.

3, 12: The connecting element of Howells is arranged as claimed.

6: The selection of either one or two abutments for use on Howells would have been an obvious matter of design choice based upon whether symmetry is desired or

not. The features of a secondary reference need not be bodily incorporated into the structure of the primary reference.

10, 11: Howells discloses a securing member.

17: Howells-Keffeler as applied to claim 12 above discloses the claimed invention except for the location of the lugs. The lugs would perform the same function whether at an end or near the middle of one of the legs, therefore the selection of either location would have been an obvious matter of design choice which may at least partially be dependent upon the type of molding equipment used to form the device. It has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70. It is noted that previously cited Ernst et al (US 5,069,340) places the attachment lugs at the ends of the connected pieces.

3. Claims 4, 8, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Howells-Keffeler as applied to claim 1 above, and further in view of Merritt (US 4,903,920).

4: Howells-Keffeler, as applied to claim 1 above, discloses the claimed invention except for the widened portion. However, Merritt teaches a widened portion 54 on a leg of a clip for better retention of a wire/cord and for said purpose, it would have been obvious to one of ordinary skill in the art to provide the clips of Howells with widened portions.

8, 9: Howells-Keffeler, as applied to claim 1 above, discloses the claimed invention except for the protruding portion. However, Merritt teaches a widened portion

50a (Figure 2a) on a retaining body of a clip for separation of multiple wires/cords and for said purpose, it would have been obvious to one of ordinary skill in the art to provide the clips of Howells with a protruding portion.

4. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Howells-Keffeler as applied to claim 1 above, and further in view of Ernst et al (US 5,069,340).

Howells-Keffeler, as applied to claim 1 above, discloses the claimed invention except for the notched connecting member. However, Ernst teaches the provision of notches 80/82/84/86 in connecting elements 74 to encourage fracture at a particular location, and for said purpose, it would have been obvious to one of ordinary skill in the art to provide the connecting elements of Howells with notches.

5. Claims 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Howells (Des. 367,604) in view of Keffeler et al (US 7,097,037).

14-16: Howells-Keffeler, as applied above discloses the claimed structures, but does not expressly disclose the manner of usage of the device. However, under the principles of inherency, if a prior art device, in its normal and usual operation, would necessarily perform the method claimed, then the method claimed will be considered to be anticipated by the prior art device. When the prior art device is the same as a device described in the specification for carrying out the claimed method, it can be assumed the device will inherently perform the claimed process. *In re King*, 801 F.2d 1324, 231 USPQ 136 (Fed. Cir. 1986).

***Response to Arguments***

6. Applicant's arguments filed 30 July 2009 have been fully considered but they are not persuasive.

In response to the argument that Keffeler is non-analogous art, an inventor considering the fracture of connected components would naturally look to other fracturing mechanisms, including that taught by Keffeler. An inventor considering a hinge and latch mechanism for portable computers would naturally look to references employing other " housings, hinges, latches, springs, etc." which in that case came from areas such as "a desktop telephone directory, a piano lid, a kitchen cabinet, a washing machine cabinet, a wooden furniture cabinet, or a two-part housing for storing audio cassettes." *In re ICON Health and Fitness, Inc.*, 496 F.3d 1374, 1380 (Fed. Cir. 2007) (citing *In re Paulsen*, 30 F.3d 1475, 1481 (Fed. Cir. 1994).

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Gregory Pickett whose telephone number is 571-272-4560. The examiner can normally be reached on Mon-Fri, 11:30 AM - 8:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 571-272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. Gregory Pickett/  
Primary Examiner, Art Unit 3728